



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,299	02/10/2004	Steven R. Bystrom	212/544	3517

23371 7590 06/06/2006

CROCKETT & CROCKETT
24012 CALLE DE LA PLATA
SUITE 400
LAGUNA HILLS, CA 92653

EXAMINER

DEMILLE, DANTON D

ART UNIT	PAPER NUMBER
----------	--------------

3764

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/776,299

Applicant(s)

BYSTROM ET AL. ✓

Examiner

Danton DeMille

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan et al. '426 in view of Halperin et al. '674.

Morgan teaches details of the defibrillation system to be used for CPR patients that uses a communication system so that first responders can communicate with health care professionals. First responders to a heart attack victim don't usually have the proper knowledge to operate a CPR system including a defibrillation device. Therefore there is need for a communication system so that first care responders can communicate with health care professionals. Morgan also teaches that a security system may be needed to prevent unauthorized individuals from operating the system, column 6, lines 52-67. The communication station sends a return signal to the defibrillator authorizing the operation of the system. This communication system provides an identification means for identifying the first responder as a legitimate need for operating the device and the computer system to then accept an authorizing signal from the communication station to functionally enable the device. While Morgan teaches the device is for use in heart attack victims for first responders to administer CPR, Morgan fails to teach how one is to administer the chest compression part of CPR.

Halperin teaches the combination of using a chest compression device with defibrillation electrodes and a controller operating both. It would have been obvious to one of ordinary skill in the art to modify Morgan to include a chest compression device as taught by Halperin to complete the operation of administering CPR.

Claims 2-5, 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan et al. '426 in view of Arand et al. '617.

Arand teaches that it is desirable for the automatic external defibrillators (AED) to have at least two different levels of access. One level is for first responders to have access to an automated mode for basic life support operation and a second mode restricted to manual functions to qualified advanced cardiac life support (ACLS). Arand teaches restricting access to the manual mode by using a software pass code, column 3, lines 59-61. As noted above Morgan teaches the communication system that unlocks the AED once the communication station authorizes physical access to the device. It would have been obvious to one of ordinary skill in the art to modify Morgan to prohibit functional enablement to the first operator and permit functional enablement of the device to a second operator as taught by Arand to logically segregate and restrict access to manual function to qualified ACLS personnel.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 2 above, and further in view of McGrady et al. '593.

Arand teaches using a software pass code to access different levels of operation. McGrady teaches using an access card reader as an example of a software pass code. It would have been obvious to one of ordinary skill in the art to further modify Morgan to use a card reader as taught by McGrady as an example of using a software pass code to determine the level of access.

Response to Arguments

Applicant's arguments filed 17 March 2006 have been fully considered but they are not persuasive.

Applicant argues that the combination of Morgan and Halperin fails to teach or suggest means for determining the level of access of a particular operator and permit operation of the compression device. It is not clear how much weight can be given these arguments since such is not claimed. What is claimed is a computer programmed to permit the compression device to be placed on the patient and permit operation of the compression device regardless of the operator's permitted level of access. The prior art computer is programmed to permit operation of the compression device regardless of the operator's level of access because the program has nothing to prevent the operation of the compression device. The computer allows free operation of the compression device because the program is not coded to prevent its operation. The computer allows free operation of the compression device and therefore comprehends the claims.

Morgan already teaches the computer is programmed to prohibit delivery of shock for operators having a first level of access and allows delivery of a shock for operators having a second level of access. The tiered level of access claimed is taught by Morgan.

As applicant has pointed out automated CPR devices does not require training or oversight by a licensed medical professional. Since there is no need of determining level of access of an individual in order to perform chest compressions, a computer that is programmed to allow operation of the chest compressions while restricting use of the defibrillator as taught by the prior art would comprehend the claims.

Arand is additionally cited to teach the convention of providing different levels of access to defibrillators by using software pass codes. McGrady additionally teaches restricting access to medical equipment using an access card reader. An access card reader is merely an obvious equivalent way of doing the same thing.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974. The examiner can normally be reached M-F from 8:30 to 6:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson, can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

Art Unit: 3764

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

30 May 2006


Danton DeMille
Primary Examiner
Art Unit 3764